



# Public Notice

**US Army Corps  
of Engineers**  
Louisville District

Public Notice No.  
200300774

Date:  
5 May 04

Closing Date:  
4 Jun 04

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Louisville District  
ATTN: Mr. Tim Smith, CELRL-OP-FN  
P.O. Box 59  
Louisville, KY 40201-0059

Phone: (317) 532-4227

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA) and for State Water Quality Certification pursuant to Section 401 of the CWA from the Indiana Department of Environmental Management, Office of Water Quality.

APPLICANT: Mr. Keith Lash  
Brenwick Development Company, Inc.  
12821 East New Market, Suite 200  
Carmel, Indiana 46032

AGENT: Mr. Jason Babcock-Stiner  
J.F. New & Associates, Inc.  
6640 Parkdale Place, Suite S  
Indianapolis, Indiana 46254

LOCATION: Vestal Ditch and contiguous emergent, scrub-shrub and forested wetlands within Section 15, Township 18 North, Range 4 East in Noblesville, Hamilton County, Indiana

Latitude: 40-00-02.6247  
Longitude: 86-04-05.1313  
7.5 Minute Quad: NOBLESVILLE

PURPOSE: To construct residential building lots with necessary access roads and a temporary road crossing.

DESCRIPTION OF WORK: The applicant proposes to fill approximately 2.0 acres of emergent wetland, 0.018 acres of scrub-shrub wetland and 0.88 acres of forested wetland (3.06 acres total) with 12,891 cubic yards of clean earthen soil obtained on-site. Also, 0.004 acres of Vestal Ditch will be filled for a temporary road crossing.

MITIGATION: The applicant proposes to construct approximately 7.11 acres of wetlands. Approximately 2.87 acres of emergent wetlands on-site and 0.18 acres of emergent, 0.54 acres of scrub-shrub and 3.54 acres of forested wetlands (4.24 acres total off-site) off-site adjacent to the east of the applicants property. It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied.

A DA Permit, if otherwise warranted, will not be issued on this project until a State of Indiana Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice serves as the notice for a Clean Water Act Section 401 application for water quality certification from the IDEM. IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Quality, Section 401 WQC Program, 100 N. Senate Av. Room 1255, P. O. Box 6015, Indianapolis, Indiana 46206-6015. The applicant is responsible for obtaining the certification from IDEM.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest that might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use,

navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency (USEPA), under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections that are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. All comments regarding this proposal should be addressed to Mr. Tim Smith, CELRL-OP-FN at the address noted above and should refer to the Public Notice Number 200300774.